

EXHIBIT D



DECLARATION BY QING REN

I. Introduction

1. My name is Qing REN. I am a partner at the Global Law Office ("GLO") based in Beijing. I have been retained by SZ DJI Technology Co., Ltd. ("DJI") to assist in matters concerning the production of DJI's source code in its district court dispute in the United States (the "Matter"). In particular, I have been asked to advise DJI on whether such production might be subject to Chinese export control laws and regulations and, if so, help DJI to obtain requisite license for the production.
2. I specialize in international trade, especially in areas of export control, economic sanctions, WTO dispute settlement, trade policy consultation, and other related areas. Prior to joining GLO, I worked at the Department of Treaty & Law of the Ministry of Commerce ("MOFCOM") of China from 2004 to 2013, with a focus in the international trade law area.
3. DJI contacted me on September 26, 2022, regarding the Matter. I spent the next three weeks working with DJI's in-house counsel, as well as its U.S. counsel at Finnegan, to review the Matter. In that period, I held multiple conference calls with either DJI's in-house counsel, or Finnegan counsel, or both.
4. On October 18, 2022, I was instructed by DJI to prepare a declaration to outline my efforts and expert opinions on the Matter as well as the status of the Matter. I therefore submit this declaration.
5. I swear every statement in this declaration is true to the best of my knowledge and expertise. I will make myself available for testimony, either at a deposition or at a court hearing, regarding the contents of this declaration.

II. Certain DJI Source Code Is Highly Likely Restricted Technologies under the Foreign Trade Law of the PRC

6. I have performed a preliminary evaluation of whether relevant source code at issue in DJI's court proceeding in the United States ("Proceeding") initiated by Textron Innovations, Inc. is prohibited or restricted from export under the *Foreign Trade Law of the People's Republic of China* (the "FTL")¹ and its implementing regulations. I believe that the source code involved in the Proceeding is highly likely restricted from export under the FTL and its implementing regulations.

¹ Adopted on May 12, 1994, and amended on April 6, 2004 and on November 7, 2016. For completeness, regarding export control there is another law titled *the Export Control Law of People's Republic of China* ("the "ECL"). The ECL and its implementing regulations apply to nuclear, military, and dual-use items.

7. In accordance with the FTL and its implementing regulations, including the *Regulations on Administration of Technology Import and Export of the People's Republic of China* (the “**TIER**”)² and the *Measures on Administration of Prohibited or Restricted Technology Export* (the “**TEM**”)³, China prohibits or restricts the export of certain technologies for “*safeguarding national security*” or other purposes.⁴ Export of technologies subject to prohibition is prohibited, while export of technologies subject to restriction requires a license.⁵ The technologies subject to such prohibitions or restrictions has been set out by a catalogue (the “**Catalogue**”)⁶ promulgated by the MOFCOM and the Ministry of Science and Technology of China in accordance with the authorization of the FTL and TIER.⁷

8. Based on the technical information about the source code involved in the Proceeding provided by DJI through teleconferences, I reviewed the Catalogue, compared the technical information I had learned from DJI to the control points under relevant entries of the Catalogue, and identified the following entry to be the most relevant to the source code involved in the Proceeding:⁸ (emphasis added)

Serial Number:	184012X
Technology Name:	Drone Technology
Control Points:	<ol style="list-style-type: none"> Micro-mission payloads in fixed-wing and rotary-wing drones of different levels, autonomous navigation, adaptive control, perception and avoidance, high-reliable communication, airworthiness, airspace management, <u>and other</u> key technologies; Key technologies of inertial measurement units, inclination sensors, atmospheric monitoring sensors, current sensors, magnetic sensors, engine flow sensors, <u>and other</u> types of sensors involved in the manufacture of drones; Electromagnetic interference ray gun, and other anti-drone technologies.

² Decree No. 331 of the State Council of China, as last amended on November 29, 2020.

³ MOFCOM order No. 2 of 2009.

⁴ See Articles 16 and 17 of the FTL.

⁵ See Articles 16, 17 and 19 of the FTL, and Articles 29 and 30 of the TIER.

⁶ MOFCOM order No. 12 of 2008, as last amended on August 28, 2020.

⁷ See Article 18 of the FTL and Article 29 of the TIER.

⁸ Original Chinese version: (emphasis added)

编号:	184012X
技术名称:	无人机技术
控制要点:	<ol style="list-style-type: none"> 不同级别的固定翼和旋翼类无人机中的微型任务载荷, 自主导航、自适应控制、感知与规避、高可靠通信、适航及空域管理等关键技术 无人机制造中所涉及的惯性测量单元、倾角传感器、大气监测传感器、电流传感器、磁传感器、发动机流量传感器等类型传感器的关键技术 电磁干扰射线枪等反无人机技术

9. The source code I was asked to evaluate for this purpose includes: **(A)** source code for the flight control system, and **(B)** source code for other core technologies of DJI's drones, as discussed in Subsections A and B below.
10. After assessment, I consider that the source code of the software of the flight control system **(A)** and other core technologies of DJI's drones **(B)** are not subject to prohibition but are highly likely to be covered by the Drone Technology described above, the export of which is subject to restriction and thus requires a license.

A. The Flight Control System

11. Based on DJI's description, the flight control system includes hardware and software. The software, which controls the drone to execute commands from the pilot, includes, *inter alia*, the following components: (i) Drivers of payload and sensors; (ii) sensor reading and sensor management; (iii) actuator management; (iv) state estimation; (v) flight control law; (vi) situation awareness and decision-making; (vii) redundancy device management; and (viii) fault detection and fault isolation.
12. After my own research and discussion with DJI about the above components, I understand that the source code of the software of the flight control system is highly likely covered by the first Control Point of the Drone Technology. Specifically, the source code of the flight control system, especially for the above components (iii) to (viii), is highly likely to be identified as "*key technologies*" of "*autonomous navigation*", "*adaptive control*", and "*perception and avoidance*" under the first Control Point of the Drone Technology.
13. Moreover, I noted that some of the flight control system's software components (*i.e.*, components (i) and (ii)) are related to sensors. DJI confirmed that the source code of the flight control system also involves data application of sensors including inertial measurement units and barometric sensors (corresponds to "*atmospheric monitoring sensors*" under the second Control Point of Drone Technology). DJI also confirmed the aforesaid software components are embedded in or closely related to the corresponding sensors. I therefore believe these software components are highly likely covered by the second Control Point of Drone Technology.⁹

B. Other Core Technologies of DJI's Drones

14. DJI also asks me to evaluate source code for other core technologies of its drones, specifically, source code of mapping and 3D construction, and source code for inertial measurement units, attitude sensors (corresponds to "*inclination sensors*" under the second Control Point of Drone Technology), barometric sensors (corresponds to "*atmospheric monitoring sensors*"), and magnetometers (corresponds to "*magnetic sensors*").

⁹ Even if the source code of the flight control system is not covered by the second Control Point, its close relation to sensors that are underlined by the second Control Point further supports that the flight control system highly likely constitutes a "*key technolog[y]*" of Drone Technology controlled by the first Control Point.

15. I believe the source code for mapping and 3D construction is covered by “key technolog[y]” of “*perception and avoidance*” under the first Control Point of the Drone Technology. Moreover, it is noteworthy that the first Control Point adopts non-exhaustive enumeration to describe “key technologies” that are controlled under the Drone Technology. As such, the scope of the first Control Point is arguably broad enough to cover DJI’s other core technologies applied in its drones to the extent they are “key technologies” at the same or similar degree if compared with the explicitly listed technologies therein.
16. I believe the source code for software embedded in sensors such as inertial measurement units, attitude sensors (corresponds to “*inclination sensors*” under the second Control Point of Drone Technology), barometric sensors (corresponds to “*atmospheric monitoring sensors*”), and magnetometers (corresponds to “*magnetic sensors*”) is also highly likely covered by the second Control Point of the Drone Technology.¹⁰

17. In conclusion, the source code described in **II.A** and **II.B** above highly likely falls within the first Control Point and/or the second Control Point of the Drone Technology under the Catalogue as a restricted technology. Consequently, a license from the Department of Commerce of Guangdong Province (“**GDDOC**”) will be highly likely required before DJI may disclose the source code in the Proceeding.¹¹

III. Process and Timeline about Application for the License

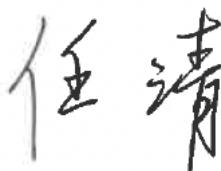
18. Pursuant to the FTL and the TIER, export of a technology subject to prohibition, or export of a technology subject to restriction without a license, will result in severe administrative and/or criminal penalty.¹² I therefore advised DJI to carefully review the source code at issue and abide by the FTL and its implementing regulations when providing the source code in the Proceeding. As the source code at issue is highly technical and involves various departments from DJI, I had to conduct multiple telephone conferences to gain an accurate understanding before I could reasonably apply the relevant law. After completing my analysis to determine that DJI should request such a license, on October 16, 2022, I was asked by DJI to assist DJI to prepare the requisite application materials.
19. Because the analysis of export control issues is never clear-cut, I often suggest to companies that they should better, by themselves or through counsel, request an informal consultation with the relevant government departments to discuss the issue and obtain guidance before preparing and submitting an application for license. In this case, however, DJI has asked me to assist them immediately start the application process, noting the urgency of the Matter.

¹⁰ Even if such source codes are not covered by the second Control Point, they are still likely to be covered by the first Control Point (see footnote above).

¹¹ In accordance with Article 4 of the TEM, a license application shall be handled by the commercial department of the provincial-level government of the province where the applicant is located.

¹² See Article 61 of the FTL and Article 44 of the TIER.

20. Accordingly, I have started to assist DJI preparing the application materials for a license to export a technology subject to restriction under the FTL and TIER, which include the *Application Form for Export Restricted Technology from China* (“**Application Form**”) and other necessary documentations and materials for the technical review. The Application Form requires the exporter (*i.e.*, DJI) to prepare not only general information regarding the exporter itself, the technology subject to export, the importer, and the purpose of the export,¹³ but also detailed explanation concerning the technology subject to export, including the technology’s main content, technical indicators, evaluation of technical level, means and reasons for technology export, R&D methods and process of the technology, and the technology’s applications, development prospects, social and economic benefits and impacts inside and outside China.¹⁴ Except for the Application Form, the exporter should also prepare other technical documentations and explanation materials for the technical review, such as the R&D agreement, complete instruction for the technology subject to export, supporting documents for IP rights, diagram of main technical indicators.¹⁵
21. As of this declaration, I expect the preparation for the flight control system’s application will take about another two to three weeks. Once an application is submitted, the government examination process may take 45 business days, which does not include the time for DJI to prepare and submit supplementary materials additionally required by the government during the examination.¹⁶ If DJI were to seek licenses for exporting its entire source codes for all accused products, the preparation process would be much longer since the source codes are tremendous and cover a large number of drone technologies.



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¹³ See Section I of the Application Form. The Application Form (sample) (Chinese version) can be downloaded here: <http://com.gd.gov.cn/attachment/0/409/409901/3166845.docx>.

¹⁴ See Section II of the Application Form.

¹⁵ See Section IV of the Application Form.

¹⁶ See Articles 32 and 34 of the TIER.